



महाराष्ट्र शासन राजपत्र

असाधारण भाग पाच-अ

वर्ष १०, अंक ९]

शुक्रवार, जुलै ५, २०२४/आषाढ १४, शके १९४६

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असाधारण क्रमांक १६

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the **5th July, 2024** is published under Rule 117 of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. XVI OF 2024.

A BILL

*to prevent unfair means in the competitive examinations and
to provide for matters connected therewith or incidental thereto.*

WHEREAS it is expedient to enact a new law to prevent unfair means in the competitive examinations and to provide for matters connected therewith or incidental thereto; it is hereby enacted in the Seventy-fifth Year of the Republic of India as follows :—

(१)

CHAPTER I

PRELIMINARY

Short title and
commencement.

1. (1) This Act may be called the Maharashtra Competitive Examination (Prevention of Unfair Means) Act, 2024.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

CHAPTER II

DEFINITIONS

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “candidate” means a person who has been granted permission by the competitive examination authority to appear in competitive examination and includes a person authorized to act as a scribe on his behalf in the competitive examination;

(b) “communication device” shall have the same meaning assigned to it in clause (ha) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(c) “competitive examination” means any examination conducted by the competitive examination authority, as specified in the Schedule, or conducted by such other authority as may be notified by the State Government;

(d) “competitive examination authority” means the Maharashtra Public Service Commission, Selection Committee engaged or constituted by the State Government, from time to time, for conducting competitive examination or any Examination Authority as specified in Schedule;

(e) “competitive examination centre” means such premises, which is selected by the service provider or otherwise selected by the competitive examination authority, to be used for conduct of competitive examination and which, amongst others, may include any school, computer center, institution, any building or part thereof and the same shall include the entire periphery and land appurtenant thereto which may be used for security and other related reasons for conduct of the competitive examinations;

(f) “computer network”, “computer resource” and “computer system” shall have the same meanings respectively assigned to them in clauses (j), (k) and (l) of sub-section (1) of section 2 of the Information Technology Act, 2000 ;

(g) “conduct of competitive examination” shall include all the procedures, processes and activities, as may be prescribed, for being adopted for the conduct of competitive examination;

(h) “Government” means the Government of Maharashtra;

(i) “institution” means any agency, organization, body, association of persons, business entity, company, partnership or single proprietorship firm, by whatever name it may be called, which is other than the competitive examination authority and the service provider engaged by such authority:

Explanation.—For the purposes of this clause, it is clarified that “company” includes a company as defined in clause (20) of section 2 of

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the Companies Act, 2013; or a limited liability partnership firm as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008;

(j) “notification” means a notification published in the *Official Gazette* and the expression “notify” shall be construed accordingly;

(k) “organized crime” means an unlawful activity committed by a person or a group of persons indulging in unfair means in collusion and conspiracy to pursue or promote a shared interest for wrongful gain in respect of a competitive examination;

(l) “person associated with a service provider” means a person who performs services for or on behalf of such service provider irrespective of whether such person is an employee or an agent or a subsidiary of such service provider, as the case may be;

(m) “paper setter” means any person or entity appointed by the competitive examination authority for preparation of questions or question bank or question paper;

(n) “prescribed” means prescribed by rules made under this Act; and

(o) “service provider” means any agency, organization, body, association of persons, business entity, company, partnership or single proprietorship firm, including its associates, sub-contractors and provider of support of any computer resource or any material, by whatever name it may be called, which is engaged by the competitive examination authority for conduct of competitive examination.

(2) Words and expressions used herein but not defined and are defined under any other law for the time being in force, shall have the same meanings as assigned to them in those laws.

CHAPTER III

UNFAIR MEANS AND OFFENCES

3. The unfair means relating to the conduct of a competitive examination shall include any act or omission done or caused to be done by any candidate or any person or group of persons or institutions, and include but not be restricted to, any of the following acts for monetary or wrongful gain,— Unfair means.

(i) direct or indirect involvement of any candidate himself or with the support of any other person in competitive examination or illegal use of any written, non-written, quoted, copied, printed material, material obtained from electronic or Information Technology (IT) gadgets or taking any unfair and other unauthorized aid or using any unauthorized electronic or mechanical device or gadget, etc. in the examination;

(ii) conduct of impersonation in the examination;

(iii) leakage of question paper or answer key or part thereof;

(iv) participating in collusion with others to effect leakage of question paper or answer key;

(v) accessing or taking possession of question paper or an Optical Mark Recognition response sheet or any other mode of answer sheet without authority;

(vi) providing solution to one or more questions by any unauthorized person during a competitive examination;

(vii) directly or indirectly assisting the candidate in any manner unauthorized in the competitive examination;

(viii) tampering with answer sheets including Optical Mark Recognition response sheets;

(ix) altering the assessment except to correct a bona fide error without any authority;

(x) willful violation of norms or standards set up by the State Government or Maharashtra Public Service Commission for conduct of a competitive examination on its own or through its agency;

(xi) tampering with any document necessary for short-listing of candidates or finalizing the merit or rank of a candidate in a competitive examination;

(xii) deliberate violation of security measures to facilitate unfair means in conduct of a competitive examination;

(xiii) tampering with the computer network or a computer resource or a computer system;

(xiv) manipulation in seating arrangements, allocation of dates and shifts for the candidates to facilitate adopting unfair means in examinations;

(xv) threatening the life, liberty or wrongfully restraining persons associated with the competitive examination authority or the service provider or any authorized agency of the Government; or obstructing the conduct of a competitive examination;

(xvi) creation of fake website to cheat or for monetary gain; and

(xvii) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain.

Conspiracy
for unfair
means.

4. No person or group of persons or institutions shall collude or conspire to facilitate indulgence in any such unfair means.

Disruption to
conduct
competitive
examination.

5. (1) No person, who is not entrusted or engaged with the work pertaining to the competitive examination or conduct of competitive examination or who is not a candidate, shall enter the premises of the examination center, with intent to disrupt the conduct of the competitive examination.

(2) No person authorized, engaged or entrusted with the duties to conduct competitive examination shall, before the time fixed for opening and distribution of question papers:-

(a) open, leak or possess or access or solve or seek assistance to solve such question paper or any portion or a copy thereof in unauthorized manner for monetary or wrongful gain;

(b) give any confidential information or promise to give such confidential information to any person, where such confidential information is related to or in reference to such question paper for monetary or wrongful gain.

(3) No person, who is entrusted or engaged with any work pertaining to competitive examination shall, except where he is authorized in furtherance of his duties to do so, reveal or cause to be revealed or make known to any

other person any information or part thereof which has come to his knowledge for any undue advantage or wrongful gain.

6. Any person who is appointed as a paper setter for any examination shall not supply or cause to be supplied the question paper drawn by him or a copy thereof or communicate the contents of such paper to any person or give publicity thereto in any manner, except in accordance with the instructions given to him in writing by his appointing competitive examination authority in this behalf. Duties of paper setter.

7. If any person or group of persons or institution commits any unfair means or offence under sections 3, 4, 5 and section 6, the competitive examination authority or the service provider shall forthwith report the offence to the concerned police authorities and also inform the competitive examination authority: Other offences.

Provided that, if the service provider resorts to unfair means and commits the offence or is involved in facilitating an offence, the competitive examination authority shall report the same to the concerned police authorities.

8. It shall be an offence for the service provider or the institution or any person associated with the service provider to cause any premises, other than the examination centre, authorised by the competitive examination authority, to be alternatively used for the purpose of holding competitive examination, without the written approval of the competitive examination authority: No premises other than examination centre shall be used for competitive examination.

Provided that, nothing contained in this section shall be an offence where any change in the examination centre without prior consent of the competitive examination authority is due to any *force majeure*.

9. (1) Any person, including the person associated with a service provider, shall be deemed to have committed an offence if he individually or in collusion with any other person or group of persons or institutions assists any person or group of persons or institutions in any manner unauthorized in the conduct of competitive examination. Offences in respect of service provider and other persons.

(2) Service provider or any person associated with it shall be deemed to have committed an offence if he fails to report incidence of any unfair means or commission of any offence to concerned authority.

(3) Where an offence committed by a service provider is, *prima facie*, established during investigation to have been committed with the consent or connivance of any director, manager, secretary or other officer of such service provider, such person shall also be liable to be proceeded against him:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under the Act, if he proves that the offence was committed without his knowledge and he exercised all due diligence to prevent the commission of such offence.

CHAPTER IV

PUNISHMENT FOR OFFENCES

10. All offences under this Act, shall be cognizable, non-bailable and non-compoundable. Cognizable offences.

Punishment
for offences
under this
Act.

11. (1) Any person or persons resorting to unfair means and offences under this Act, shall be punished with imprisonment for a term not less than three years but which may extend to five years and with fine up to ten lakh rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed, as per the provisions of the Bharatiya Nyaya Sanhita, 2023.

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2023.

(2) The service provider shall also be liable to be punished with imposition of a fine upto one crore rupees and proportionate cost of examination shall also be recovered from such service provider and he shall also be barred from being assigned with any responsibility for the conduct of any competitive examination for a period of four years.

(3) Where it is established during the investigation that offence under this Act has been committed with the consent or connivance of any Director, Management or the persons in-charge of the service provider firm, he shall be liable for imprisonment for a term not less than three years but which may extend to ten years and with fine of one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023.

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2023.

(4) Nothing contained in this section shall render any such person liable to any punishment under the Act, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

Organised
crimes.

12. (1) If a person or a group of persons including those belonging to the competitive examination authority or service provider or any other institution commits an organised crime, he shall be punished with imprisonment for a term not less than five years but which may extend to ten years and with fine which shall not be less than one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023.

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2023.

(2) If an institution or service provider is involved in committing an organized crime, its property shall be subjected to attachment and forfeiture and proportionate cost of examination shall also be recovered from it.

CHAPTER V

INQUIRY AND INVESTIGATION

Officers
empowered to
investigate.

13. (1) An officer not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police shall investigate any offence under this Act.

(2) Notwithstanding anything contained in sub-section (1), the State Government shall have the powers to refer the investigation to any State Investigating Agency.

CHAPTER VI

MISCELLANEOUS

Power to
amend
Schedule.

14. (1) The State Government may, by notification published in the *Official Gazette*, amend the Schedule by adding or modifying or deleting any entry therein and thereupon the Schedule shall stand amended accordingly for the purposes of this Act.

(2) Every notification issued under sub-section (1) shall be laid before each House of the State Legislature.

15. The Chairperson, Members, officers and other employees of the competitive examination authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Bharatiya Nyaya Sanhita, 2023.

Members, officers and employees of competitive examination authority to be public servants.

16. No suit, prosecution or other legal proceedings under this Act, shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers:

Protection of action taken in good faith by any public servant.

Provided that, the public servants in the service of any competitive examination authority shall be subject to administrative action in terms of service rules of such competitive examination authority:

Provided further that, nothing shall prevent proceeding against such public servants where, *prima facie* case exists for establishing commission of an offence under this Act.

17. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force:

Provisions of this Act to be in addition to other laws.

Provided that, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law in force.

18. (1) The State Government may, by notification published in the *Official Gazette*, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of notification of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Power to remove difficulties.

Provided that, no such order shall be made after expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

SCHEDULE

[See section 2 (c), (d) and section 14]

(A) Any Examination Conducted by,—

(1) the Maharashtra Public Service Commission ;

(2) any other authority or selection committee or service provider or institution authorized by the Government to conduct competitive examination from time to time ;

(3) any Department of the Government.

(B) (1) Teacher Aptitude and Intelligence Test (TAIT) and Teacher Eligibility Test (TET) conducted by Maharashtra State Council for Examination.

STATEMENT OF OBJECTS AND REASONS

In the modern era, competitive examinations play a crucial role in merit based selection and ensuring equal opportunities in education and employment. Malpractices in competitive examinations lead to delay and cancellation of examinations, adversely impacting the prospects of millions of youth, which are contrary to the concept of providing equal opportunities to the candidates and transparency in the competitive examinations.

2. At present, there is no specific substantive law to deal with unfair means adopted or offences committed by various entities involved in the conduct of competitive examinations. Therefore, it is imperative that the elements that exploit vulnerabilities of examination system are identified and effectively dealt with by a comprehensive State Legislation.

3. The objective of the Bill is to bring greater transparency, fairness and credibility to the competitive examination system and to reassure the youth that their sincere and genuine efforts will be fairly rewarded and their future is safe. The Bill is aimed at effectively and legally deterring persons, organised groups or institutions that indulge in various unfair means and adversely impact the competitive examination system for monetary or wrongful gains.

4. In view of the above, the Government considers it expedient to enact a new law to prevent unfair means in the competitive examinations.

5. The salient features of the Bill are as follows,—

(a) to provide acts which amount to unfair means relating to the conduct of competitive examinations and for other offences in relation thereto;

(b) to prohibit collusion or conspiracy to facilitate indulgence in any unfair means;

(c) to make provisions for avoiding disruption to conduct of competitive examinations;

(d) to specify duties of paper setters;

(e) to impose liability on the service providers and other persons associated therewith;

(f) to provide for punishment for offences committed and stringent punishment for organised crimes;

(g) to empower the officers not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police to investigate the offence.

6. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 4th July, 2024.

EKNATH SHINDE,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1(2).—Under this clause, power is taken to the State Government to appoint by notification published in the *Official Gazette*, the date on which the Act shall come into force.

Clause 14(1).—Under this clause, power is taken to the State Government to amend the Schedule, by notification published in the *Official Gazette*.

Clause 18(1).—Under this clause, power is taken to the State Government to make rules, by notification published in the *Official Gazette*, to carry out the purposes of this Act.

Clause 19(1).—Under this clause, power is taken to the State Government to issue an order published in the *Official Gazette* for removing any difficulty which may arise in giving effect to the provisions of the Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

Vidhan Bhavan:

Mumbai,

Dated the 5th July, 2024.

JITENDRA BHOLE,

Secretary (1) (I/C),

Maharashtra Legislative Assembly.